

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

TROY H. BRADFORD AND GLORIA
BRADFORD, Individually and as Class
Representatives on Behalf of All
Similarly Situated Persons; and
BOOKS ETC., by and through TROY
AND GLORIA BRADFORD, Class
Representatives on Behalf of All Those
Similarly Situated;

PLAINTIFFS

VS.

NO 4:05-cv-4075 HFB

UNION PACIFIC RAILROAD COMPANY
A Delaware Corporation, and J.L. Gordan,
an Arkansas Resident

DEFENDANTS

**PLAINTIFFS' MOTION FOR LEAVE TO FILE
SECOND AMENDED CLASS ACTION COMPLAINT**

COME NOW Plaintiffs, subject to their contention that this cause of action should be remanded to the Circuit Court of Miller County, Arkansas, and file this their Motion for Leave to File Second Amended Class Action Complaint, and would respectfully show the Court as follows:

1. Plaintiffs seek leave of Court to file their Second Amended Class Action Complaint (attached hereto as Exhibit "A"), which amends their First Amended Class Action Complaint. There has been no Docket Control Order entered by the Court.

2. The identities of the parties remain the same in Plaintiffs' Second Amended Class Action Complaint.

3. The number of paragraphs remains the same in Plaintiffs' Second Amended Class Action Complaint.

4. Granting leave to amend is consistent with the liberal amendment policy of Rule 15(a), Fed. R. Civ. P. Here, Plaintiffs do not offer any new substantive factual allegations but seek to change their allegations that parties are "residents" of Arkansas to allegations that they are "citizens" of Arkansas.

5. The Motion should also be granted because it indicates, based on the allegations of

citizenship contained therein, that this Court lacks federal subject matter jurisdiction over the parties to this lawsuit. Plaintiffs do not seek to amend to destroy federal subject matter jurisdiction, therefore, because it never actually existed.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Court grant their Motion for Leave to File Second Amended Class Action Complaint.

Respectfully Submitted,

DUNN, NUTTER & MORGAN, L.L.P.

Suite 6, State Line Plaza, Box 8030

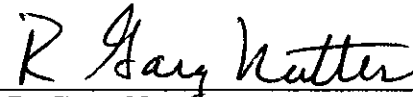
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R. Gary Nutter

Arkansas Bar No. 71058

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, R. Gary Nutter, attorney for Plaintiffs, hereby certify that on the 14th day of November, 2005, I electronically filed the foregoing Plaintiffs' Motion for Leave to File Second Amended Class Action Complaint with the Clerk of this Court using the CM/ECF system which will send notification of such filing to the following attorneys:

Attorneys for Defendants:

George L. McWilliams
Sean F. Rommel
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R. Gary Nutter